REMARKS

Claims 1-29 were pending and presented for examination and in this application. In an Office Action dated March 23, 2007, claims 1-29 were rejected. Applicant thanks Examiner for examination of the claims pending in this application and addresses Examiner's comments below.

Applicants are amending claims 1, 2, 10, 18, 19, and 25 in this Amendment and Response. These changes are believed not to introduce new matter, and their entry is respectfully requested. In view of the Amendments herein and the Remarks that follow, Applicants respectfully request that Examiner reconsider all outstanding objections and rejections, and withdraw them.

Response to Rejection Under 35 USC 102(e) in View of Vanlint

In the Office Action, Examiner rejects claims 1-29 under 35 USC § 102(e) as allegedly being anticipated by U.S. Patent No. 6,922,417 ("Vanlint"). This rejection is now traversed.

Independent claims 1, 10, 18, and 25 have been amended to explicitly recite that the claimed configuration uses a single network node to calculate latency of a network application. In particular, the claimed invention can calculate network latency from within a single network node rather than requiring two network nodes.

The claimed invention is patentably distinguishable over Vanlint. Vanlint discloses monitoring traffic on two notes of a network and merging the trace files to give latency data on opposite sides of the network. (See, e.g., Vanlint, Abstract). In contrast, the claimed invention uses a single network node that uses single trace file to calculate latency to a remote node and back. There is no need for two separate trace files in the claimed invention

unlike Vanlint, in which two trace files 20, 24 are needed. (See Vanlint, FIG. 1). Thus, the claimed invention reduces the need for managing additional network resources and provides efficiencies for determining network health using only a single node.

Based on the above amendments the remarks, Applicants respectfully submit that for at least these reasons claims 1, 10, 18, and 25 are patentably distinguishable over the cited reference. Therefore, Applicants respectfully request that Examiner reconsider the rejection, and withdraw it.

As to the dependent claims, because the independent claims from which they are dependent are patentable, all arguments advanced above with respect independent claims are applicable to the dependent claims and are hereby incorporated by reference.

Conclusion

In sum, Applicants respectfully submit that claims1-29, as presented herein, are patentably distinguishable over the cited references (including references cited, but not applied). Therefore, Applicants request reconsideration of the basis for the rejections to these claims and request allowance of them.

Respectfully Submitted,
JOSEPH VAUGHN RUSTAD ET AL.

Date: June 19, 2007   By: /Rajiv P. Patel/

Rajiv P. Patel, Attorney of Record
Registration No. 39,327
FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041
Phone: (650) 335-7607
Fax: (650) 938-5200